

REMARKS

The Office Action dated 18 May 2005 has been reviewed, and the comments of the U.S. Patent Office have been considered. Claims 1, 9, 15, 16, and 19 have been amended, claims 25 and 26 have been newly added, and claims 2-8, 10-14, 17, 18, and 20-24 remain as originally filed. Thus, claims 1-26 are respectfully submitted for consideration by the Examiner.

In the Office Action, claims 9-24 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because independent claims 9 and 19 recite that valve shaft is "coupled" to the actuator shaft or device. Applicants believe that the use of the term "coupled" in light of the specification is clear; however, in the interest of advancing prosecution of the application, claims 9 and 19 have been amended to recite "selectably engageable." Applicants do not intend for this term to alter the original scope of the claims. Support for this limitation can be found in Figures 1 and 2 showing the valve member being opened or closed based on contact between the valve actuator and the valve shaft. Applicants respectfully request that this rejection be withdrawn.

Claims 1, 3, 5-7, 9, 11, 13-16, 17, 19 and 24 stand rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by U.S. Patent No. 5,680,880 to Miyake et al. ("Miyake"); claims 2, 4, 10, 12, and 20-23 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Miyake in view of U.S. Patent No. 5,941,500 to Lebkuchner; and, claims 8 and 18 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Miyake in view of U.S. Patent No. 6,497,225 to Bircann et al. ("Bircann"). These rejections are respectfully traversed in view of the above amendments and the following comments.

Independent claim 1 recites an exhaust gas recirculation valve including, *inter alia*, "a failsafe coupled between the linear actuator and the valve shaft, the failsafe returns the valve member to the closed position upon a linear actuator failure." Support for the claimed combination of features can be found in, for example, Applicants Figure 3 and page 7, paragraph [0024]. Miyake fails to teach a failsafe component as recited in independent claim 1. Accordingly, claim 1 is patentable because Miyake fails to teach the claimed invention as a whole. And claims 2-8, which depend from claim 1 are allowable for at least the same reasons, as well as for reciting additional features.

Independent claims 9 and 19 are both directed to exhaust gas recirculation valves. Each of the exhaust gas recirculation valves include, *inter alia*, "a spring extending between first and

second cups, the linear spring being retained between a first cup and a second cup, the first cup transferring inwardly toward the longitudinal axis a biasing force to the valve shaft, the second cup transferring inwardly toward the longitudinal axis a reaction force of the spring to the base, and the second cup being oriented in a direction opposite the first cup." Support for the claimed combination of features can be found in, for example, Applicants' Figures 1 and 2 and pages 4 and 5, paragraphs [0015] to [0017]. As discussed in Applicants' specification as originally filed, for example in paragraph [0021] on pages 5 and 6, such an arrangement may result in minimizing the amount of heat transfer from the base or valve shaft to the actuator.

In contrast, Miyake discloses a single spring holder 7 attached to valve shaft 4 to retain a spring 11 between the spring holder and bracket 8 or 14. See Figure 1 and Figure 21, for example, showing spring 11 between bracket 14 or bracket 8, respectively. With regards to Figure 21, Miyake describes at column 1, lines 41-56, that the bracket 8 supports both spring 11 and a stepping motor 12. Miyake goes on to describe that such an arrangement fails to prevent heat transfer from a housing 1 to the stepping motor 12. Similarly, at column 6, lines 4-14, Miyake describes an arrangement where bracket 14, which is integrated with housing 1, supports the stepping motor 12. Noticeably, because the bracket 8 supports the stepping motor 12, the spring holder 7 and bracket are oriented in the same direction.

As such, Miyake fails to show " a spring extending between first and second cups, the linear spring being retained between a first cup and a second cup, the first cup transferring inwardly toward the longitudinal axis a biasing force to the valve shaft, the second cup transferring inwardly toward the longitudinal axis a reaction force of the spring to the base, and the second cup being oriented in a direction opposite the first cup", as recited in Applicants' independent claims 9 and 19. None of the other references relied on by the Examiner teach or suggest such an arrangement.

Accordingly, claims 10-18, and 20-26, which depend either directly or indirectly from one of independent claims 9 and 19, are also allowable for at least the same reasons, as well as for reciting additional features.

CONCLUSION

Applicants respectfully request that the Examiner enter this Amendment and Request for Reconsideration under 37 C.F.R. § 1.111, thereby placing all pending claims in condition for allowance.

Should the Examiner feel that there are any issues outstanding after consideration of this reply, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution of the application.

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 08-1641. **This paragraph is intended to be a CONSTRUCTIVE PETITION FOR EXTENSION OF TIME in accordance with 37 C.F.R. § 1.136(a)(3).**

Respectfully submitted,

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